

EXECUTIVE OFFICER'S SUMMARY REPORT
8:30 a.m., December 3, 2003
River Lodge Conference Center
1800 Riverwalk Drive
Fortuna, California

ITEM: 17

SUBJECT: Update and Direction to Staff on Work Efforts in the Five Watersheds

Background

The staff is asking the Board for direction.

The policy question for consideration is:

Does the Board believe that the existing program is sufficient to assure that the water quality in the five watersheds is trending to recovery in an appropriate time period.

Included for review is item 17 A which is an update on work efforts in the five watersheds. Item 17B poses the questions for the Board's consideration and options for debate.

Independent Scientific Review Panel Report Development and Workshops

In early 2002, the Regional Water Board directed staff to convene all the stakeholders in the five watersheds into a work-group to attempt to come up with a negotiated solution. Many points of agreement were found and a great deal of effort was invested by Pacific Lumber Company, affected downstream residents, sister agency representatives, and Regional Water Board staff. One point of agreement was that meaningful progress could best be made if the parties could get closer to agreement on underlying scientific issues and the meaning of the available data.

The parties agreed a review of the available science would be valuable, and agreement was reached to engage a team of independent scientists from a range of applicable fields of study. In this way, all the parties hoped to get away from what is commonly perceived as "adversarial science" and come to some agreement on the science. Those efforts reached an impasse in June of 2002 when Pacific Lumber Company concluded that it could not agree to any scope of work in which the science panel discussed the effect of rate-of-harvest on sediment yields. The downstream residents could not agree to make that question "out-of-bounds." Since the negotiation efforts were premised on a "consensus" model, this basic disagreement blocked any further progress.

After hearing report of this impasse, the Regional Water Board directed staff to continue to try to reach as much agreement as possible on the selection of experts chosen to participate in the Independent Scientific Review Panel (Panel.) The Regional Water Board stated that all issues, as staff felt necessary and appropriate for review by the Panel, were on the table for discussion,

and found that no individual participating stakeholder should be permitted to wield a “veto power” on moving forward. Consensus was encouraged, but not required.

The stakeholders agreed on the membership of the Panel (with Pacific Lumber Company objecting to one of the seven chosen members, and the Humboldt Watershed Council objecting to another one).

The Panel issued its first report (“Phase I”) in late December, 2002. The key findings and a status of their implementation are summarized in Attachment 1. However, the report itself is the best source of its analysis and findings. Three key findings are summarized briefly as follows:

- 1) That between the two sediment budget approaches in dispute - - the “Modeled Sediment Budget” method used by Pacific Lumber Company, and the Empirical Sediment Budget approach, the “Reid Methodology” or “RSL Methodology”, endorsed by Regional Water Board staff - - the Reid Methodology was found to be sound and most useful for the Regional Water Board’s stated needs, though it could use refinement,
- 2) That the best available options to reduce sedimentation in the affected watersheds in the short term were to: a) reduce sediment and peak flows by decreasing the rate of timber harvest and other related land disturbance activities, b) increase transport capacity of the channel by re-constructing bridges and removing obstructions, c) place instream wood debris or other structures in upper and mid channel reaches to trap coarse and medium sized sediment during moderate runoff events, and d) increase the transport capacity of the channel by dredging the lower reaches of Elk River and Freshwater Creek,
- 3) or that within the next few months progress could be attained by: a) clarifying the definition of “background level” of suspended sediment, b) setting rates of timber harvest that allow for adjustments over time based upon new information, and c) establishing watershed by watershed corrective actions, and that those actions should be started soon and not postponed awaiting future research and monitoring.

Unsurprisingly these findings were found to be controversial by all stakeholders. Pacific Lumber Company and the signatory agencies to the Habitat Conservation Plan (HCP) requested that the Panel go back and take a closer look at the expected benefits from the HCP. On the basis of these requests, in early spring of this year, the Regional Water Board directed staff to engage the Panel in Phase II.

In response, staff received Regional Water Board approval of the key “terms of reference” defining the scope of work and questions to be explored in the Phase II Report. Staff assisted the consultant administering this process in providing public notices, passing on documents requested by the Panel and submitted by interested parties, and other support duties. The Panel’s Phase II Report was issued on August 12, 2003.

In Phase II, the Panel addressed four questions focused on the HCP and related documents. The key findings and the status of staff actions are included as Attachment 2. Briefly, the Panel made findings in the following four areas:

- 1) The HCP/SYP/THP process does not and cannot ensure attainment of water quality objectives,
- 2) Currently available information is insufficient to determine how soon the five watersheds will recover from their impaired status to fully support beneficial uses,
- 3) The HCP/SYP/THP structure and corresponding Watershed Analysis process cannot be relied upon to meet water quality objectives, specifically noting problems with the practice of continuing approval of THPs without watershed analyses being adopted and implemented. The Panel noted among other things that there is not a clear linkage between SYP provisions and water quality, and suggested that Regional Board staff might consider different strategies, including the preparation of interim cumulative effects assessments. In this finding, the Panel reiterated its earlier conclusion that an empirical sediment budget model of the type originally described by Dr. Reid is most consistent with the quality and quantity of data that are currently available or likely to be come available in the short term; and finally,
- 4) Following the recommendations made in the Dunne Report 46 would increase the probability of attaining water quality goals in the long term.

The Regional Water Board held three public workshops to discuss the findings and potential policy implications from the Reports.